

REMARKS

The Examiner has objected to claims 9 and 15 because of various informalities. Claims 9 and 15 have been currently amended. Applicants therefore respectfully assert that claims 9 and 15 are now in acceptable form.

The Examiner has rejected claims 9, 10, and 12-15 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent Application to Burr et al. ("Burr"). Claims 1-8 have previously been withdrawn. Claim 11 has previously been cancelled. Thus, claims 1-10 and 12-15 are currently pending. The following remarks are considered by applicant to overcome each of the Examiner's outstanding rejections to current claims 9, 10, and 12-15. An early Notice of Allowance is therefore requested.

I. SUMMARY OF RELEVANT LAW

A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.

II. THE CURRENT OFFICE ACTION SHOULD NOT BE MADE FINAL

On page 8 of the current Office Action, as well as on the Office Action Summary sheet, the Examiner has indicated that the Office Action is final. However, not a single of the Examiner's rejections from the prior Office Action of July 25, 2006, has been repeated. All of the Examiner's current rejections include a new piece of cited art, namely Burr. While certain claims were amended in the Response to the previous Office Action, "[a] second or any subsequent action on the merits in any application or patent involved in reexamination proceedings should not be made final if it includes a rejection, on prior art not of record, of any claim amended to include limitations which should reasonably have been expected to be claimed." MPEP, § 706.07(a) (emphasis added). In this case, the claim amendments should

reasonably have been expected, as they are to what the specification referred. Accordingly, Applicant respectfully requests that the Examiner withdraw the final status of the current Office Action.

III. AMENDMENTS TO CLAIM 15 ARE ALLOWABLE REGARDLESS OF THE FINALITY OF THE PREVIOUS OFFICE ACTION

Applicants have currently amended Claim 15 to delete the language stating “wherein the first space is greater in the x-direction than the second space”. While, typically, amendments to the substance of the claims are not allowed after a final rejection, Applicants believe this deletion falls within one of the exceptions to this general rule. Namely, (1) amendments to the claims may be made after final if such amendments cancel claims (37 C.F.R. § 1.116(b)(1)), (2) amendments may be made which present rejected claims in better form for consideration on appeal (37 C.F.R. § 1.116(b)(2)), and (3) amendments may be made which remove issues for appeal (MPEP § 714.13(II)).

Since the Applicants’ amendment to Claim 15 removes claim language without adding any new claim language, Applicants assert that the amendment satisfies one or more of the above exceptions. Therefore, Applicants respectfully assert that the amendment to Claim 15 is allowable, and respectfully requests that the Examiner enter the amendment to Claim 15.

IV. REJECTION OF CLAIMS 9, 10, AND 12-15 UNDER 35 U.S.C. § 102(B) BASED ON BURR

On page 2 of the current Office Action, the Examiner rejects claims 9, 10, and 12-15 under 35 U.S.C. § 102(b) as being anticipated by Burr. These rejections are respectfully traversed and believed overcome in view of the following discussion.

Claim 9

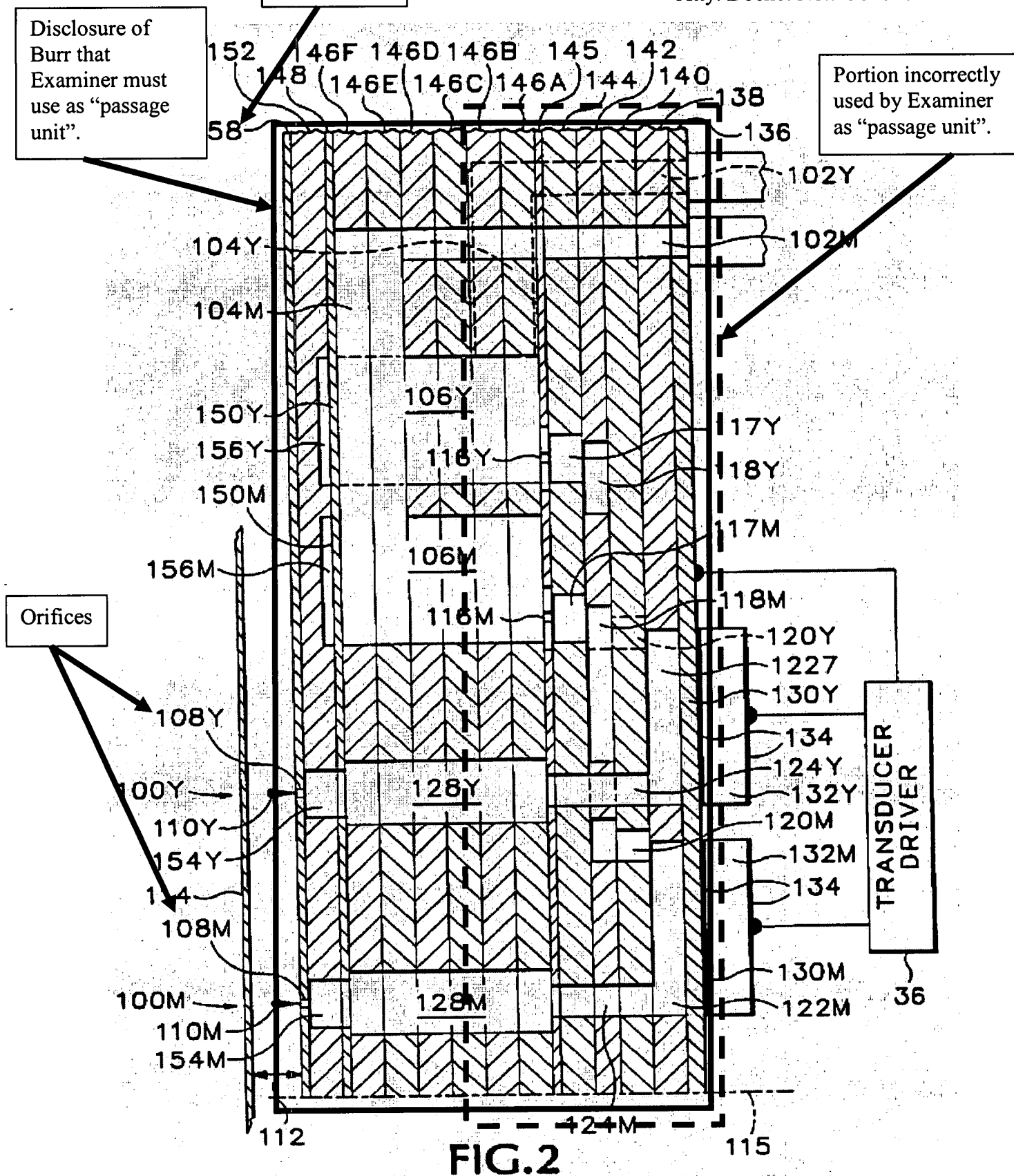
Claim 9 states, in part:

“a joint member having ... **an ink outlet port** formed at one end of the ink pathway, ...

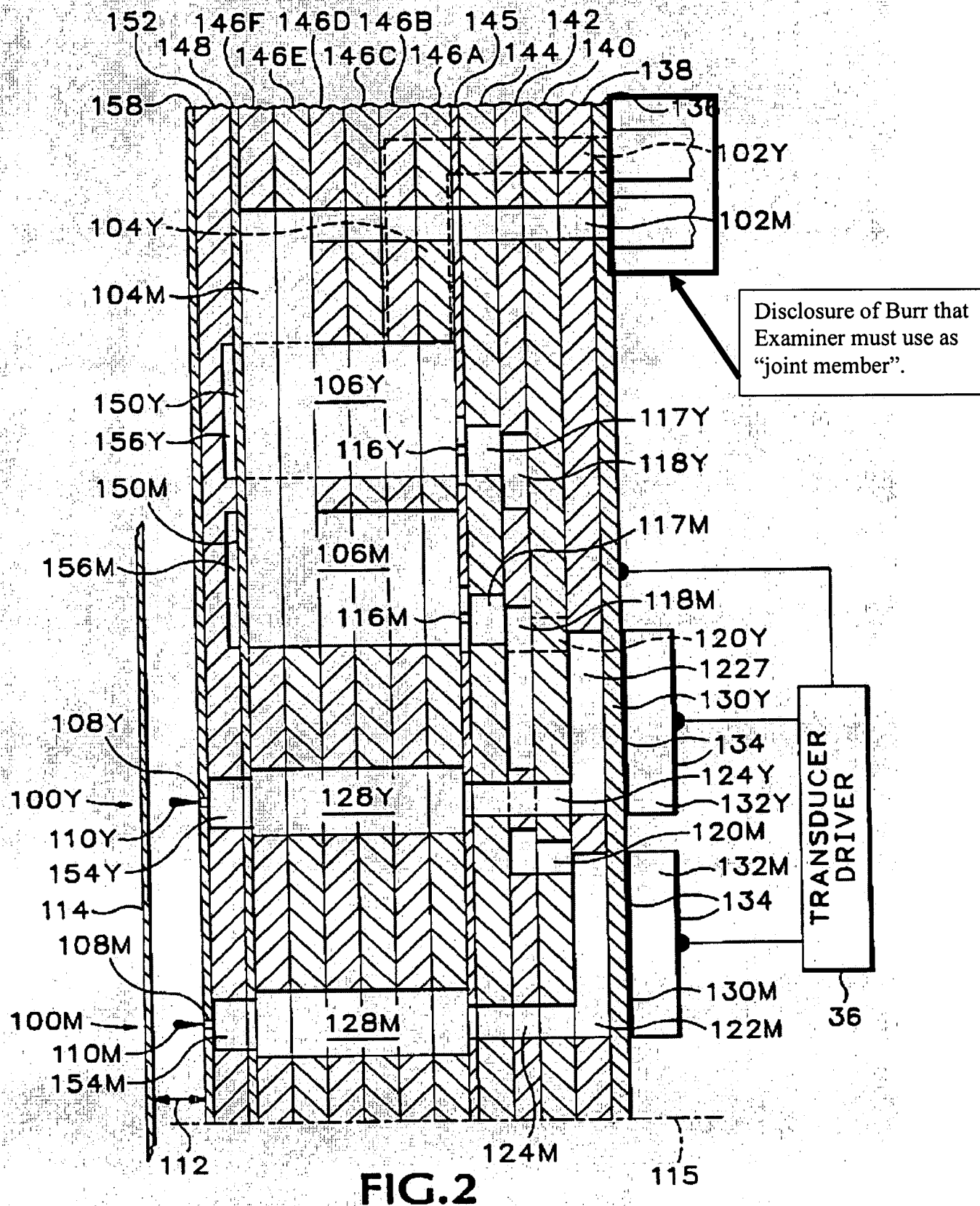
“a passage unit **having a plurality of nozzles** that eject ink, **an ink receiving port that is larger than the ink outlet port and receives the ink flowing out of the ink outlet port,**”
(emphasis added).

The Examiner contends that the joint member is disclosed by Burr as being elements 146C-146F in Fig. 2, and that the passage unit is disclosed by Burr as being elements 136, 138, 140, 142, 144, 145, 146A and 146B in Fig. 2. Office Action (4/4/07), P. 2-3. However, this misinterprets the teachings of Burr. In particular, the passage unit cannot be elements 136, 138, 140, 142, 144, 145, 146A and 146B in Fig. 2 as asserted by Examiner.

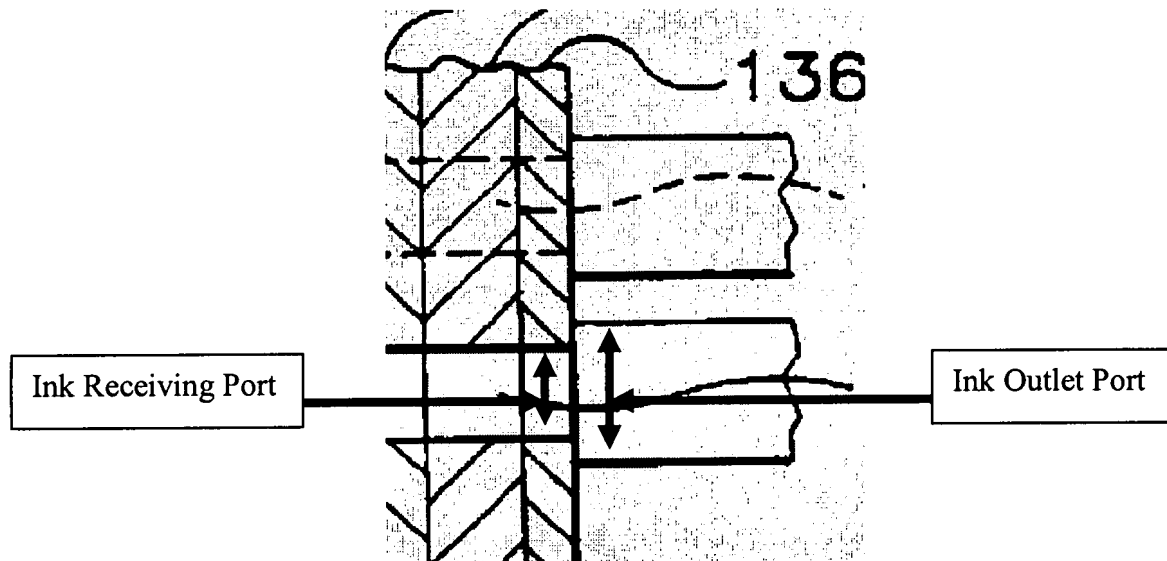
Claim 9 specifically states that the passage unit has “a plurality of nozzles”. However, elements 136, 138, 140, 142, 144, 145, 146A and 146B in Fig. 2 have no nozzles whatsoever. While the Examiner correctly states that the nozzles of Burr are the ink drop-forming orifices 108Y and 108M, the Examiner seems to overlook that these ink drop-forming orifices 108Y and 108M are part of orifice plate 158, and not part of any of elements 136, 138, 140, 142, 144, 145, 146A and 146B. Therefore, any passage unit disclosed by Burr, if any is disclosed at all, would have to include orifice plate 158. Since the passage unit, as a unit, must be contiguous, the Examiner must use elements 136, 138, 140, 142, 144, 145, 146A-146F, 148, 152, and 158 in Fig. 2 as the passage unit. (see below).



Since any passage unit of Burr must included elements 136, 138, 140, 142, 144, 145, 146A-146F, 148, 152, and 158, then any joint member of Burr, if Burr discloses a joint member, must be the portion of Fig. 2 indicated below, which Burr fails to number:



Claim 9 also specifically states that the passage unit has “an ink receiving port that is larger than the ink outlet port and receives the ink flowing out of the ink outlet port....” As can be seen by the enlarged portion below of the connection between the passage unit of Burr and the joint unit of Burr, the ink receiving port of the passage unit is smaller than the ink outlet port of the joint unit.

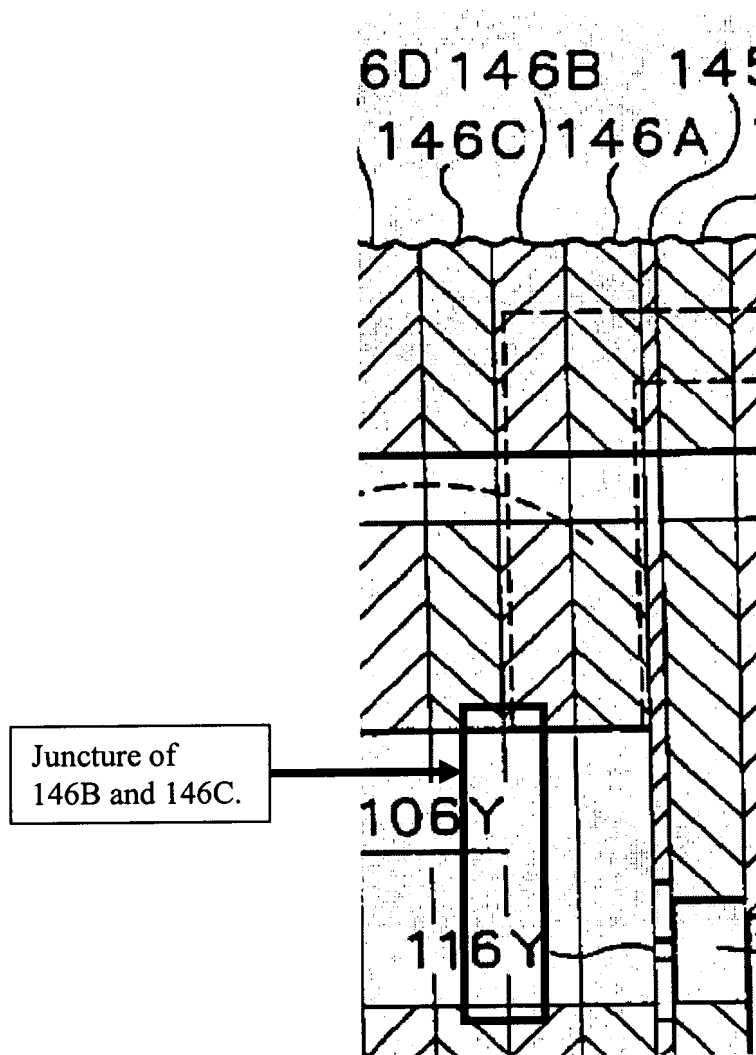


Therefore, Burr fails to disclose this claim language of Claim 9.

In addition, the Examiner's own arguments on this issue contradict one another. As discussed earlier, the Examiner contends that the joint member is disclosed by Burr as being elements 146C-146F in Fig. 2, and that the passage unit is disclosed by Burr as being elements 136, 138, 140, 142, 144, 145, 146A and 146B in Fig. 2. Office Action (4/4/07), P. 2-3. However, the Examiner then argues that the first ink passage of the passage unit is disclosed by element 146C, an element the Examiner had previously stated was part of the joint member. *Id.*, P. 3.

Moreover, even assuming the Examiner's assertions are correct, which they are not, regarding which portion of Fig. 2 is the joint portion and which is the passage unit, the Examiner cannot show Burr discloses the above language of Claim 9. The Examiner's mark-up of Fig. 2 indicates that the Examiner asserts that the portion of ink manifold 106Y is the “first space formed between the ink receiving port and the filter”, as stated in Claim 9. Since the “first

space” is a part of the passage unit, the Examiner must be asserting that the connection between the passage unit of Burr and the joint unit of Burr is the part of ink manifold 106Y at the juncture of element 146B and 146C. However, as seen below, the part of ink manifold 106Y at the juncture of element 146B and 146C does not satisfy the language of Claim 9 stating that an ink receiving port is larger than the ink outlet port.



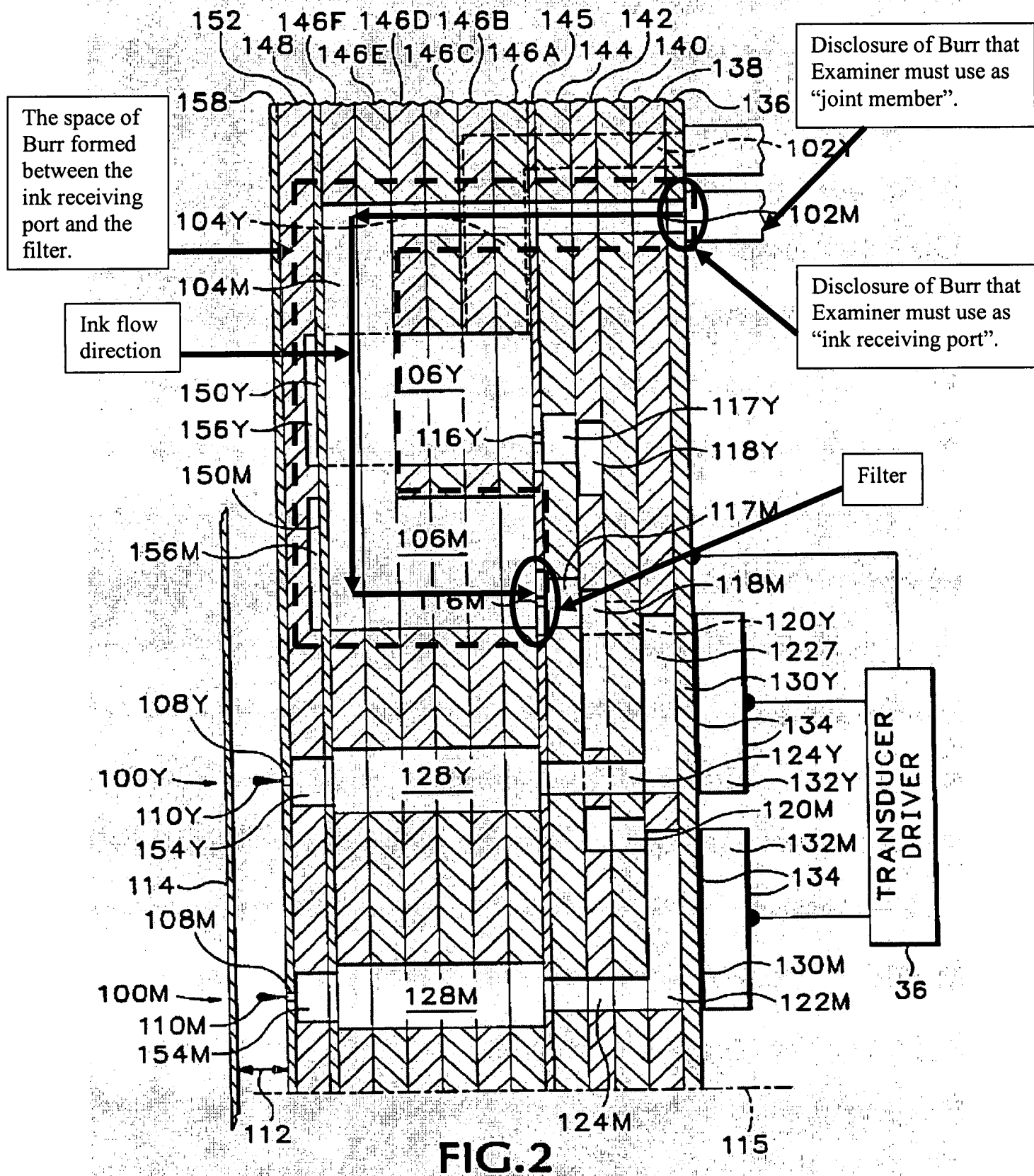
Therefore, even assuming the Examiner's arguments are correct regarding which portion of Fig. 2 is the joint portion and which is the passage unit, Burr fails to disclose a passage unit having "an ink receiving port that is larger than the ink outlet port and receives the ink flowing out of the ink outlet port...."

Claim 9 also states, in part:

“wherein:

“a first space is formed between the ink receiving port and the filter, **a cross-sectional shape and size of the first space in the direction perpendicular to the ink flow direction being constant along the ink flow direction;**” (emphasis added).

As discussed above, the Examiner’s assertions regarding which portion of Fig. 2 is the joint portion and which is the passage unit are incorrect. Rather, the Examiner must use elements 136, 138, 140, 142, 144, 145, 146A-146F, 148, 152, and 158 in Fig. 2 as the passage unit, and must use the portion of Fig. 2 indicated above as the joint member. As such, the space of Burr formed between the ink receiving port and the filter is indicated below.



As can plainly be seen from Fig. 2 above, the space of Burr formed between the ink receiving port and the filter, which would be the “first space”, does not have a cross-sectional shape and size in the direction perpendicular to the ink flow direction that is constant along the ink flow direction. Rather, the cross section shape and size varies multiple times. Therefore, Burr fails to disclose “a first space is formed between the ink receiving port and the filter, a cross-sectional shape and size of the first space in the direction perpendicular to the ink flow direction being constant along the ink flow direction”, as specified by Claim 9.

Burr fails to disclose a passage unit having “an ink receiving port that is larger than the ink outlet port and receives the ink flowing out of the ink outlet port...”, as specified by Claim 9. Burr also fails to disclose “a first space is formed between the ink receiving port and the filter, a cross-sectional shape and size of the first space in the direction perpendicular to the ink flow direction being constant along the ink flow direction”, as specified by Claim 9.

Accordingly, Applicants respectfully assert that Examiner has failed to establish a prima facie case of anticipation of independent Claim 9, and corresponding claims 10 and 12-14 because they are dependent from Claim 9. Therefore, Applicants respectfully assert that the Examiner remove the rejection of claims 9, 10, and 12-14 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,907,338 to Burr et al.

Claim 15

Similarly to Claim 9, Claim 15 also states, in part:

“a joint member having ... **an ink outlet port** formed at one end of the ink pathway, ...

“a passage unit **having a plurality of nozzles** that eject ink, **an ink receiving port that is larger than the ink outlet port** and **receives the ink flowing out of the ink outlet port**,

“wherein:

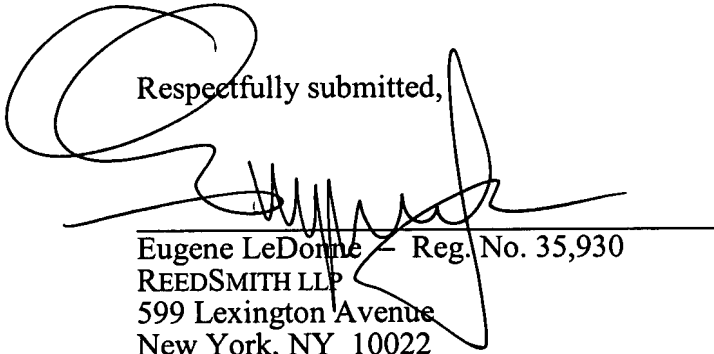
“a first space is formed between the ink receiving port and the filter, **a cross-sectional shape and size of the first space in the**

direction perpendicular to the ink flow direction being constant along the ink flow direction;” (emphasis added).

As discussed in detail above, Burr fails to disclose a passage unit having “an ink receiving port that is larger than the ink outlet port and receives the ink flowing out of the ink outlet port...”, as specified by Claim 15. Also as discussed in detail above, Burr fails to disclose “a first space is formed between the ink receiving port and the filter, a cross-sectional shape and size of the first space in the direction perpendicular to the ink flow direction being constant along the ink flow direction”, as specified by Claim 15. Accordingly, Applicants respectfully assert that Examiner has failed to establish a prima facie case of anticipation of independent Claim 15. Therefore, Applicants respectfully assert that the Examiner remove the rejection of Claim 15 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,907,338 to Burr et al.

Based upon the above remarks, Applicants respectfully request reconsideration of this application and its early allowance. Should the Examiner feel that a telephone conference with Applicants’ attorney would expedite the prosecution of this application, the Examiner is urged to contact him at the number indicated below.

Respectfully submitted,



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